

Order

Michigan Supreme Court
Lansing, Michigan

October 18, 2005

Clifford W. Taylor,
Chief Justice

ADM File No. 2003-04

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Amendment of
Rule 7.205 of the
Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendment of Rule 7.205 of the Michigan Court Rules is adopted, effective January 1, 2006.

[The present language is amended as indicated by underlining for new text and strikeout for text that is deleted.]

Rule 7.205 Application for Leave to Appeal

(A)-(E)[Unchanged.]

(F) Late Appeal.

(1)-(3)[Unchanged.]

(4) The limitation provided in subrule (F)(3) does not apply to an application for leave to appeal by a criminal defendant if the defendant files an application for leave to appeal within 21 days after the trial court decides a motion for a new trial, for judgment directed verdict of acquittal, to withdraw a plea, or for resentencing to correct an invalid sentence, if the motion was filed within the ~~12~~ 6-month period prescribed in MCR 6.310(C), MCR 6.419(B), MCR 6.429(B), and MCR 6.431(A), or if

(a) the defendant has filed a delayed request for the appointment of counsel pursuant to MCR 6.425(~~F~~)(G)(1) within the 12-month period,

- (b) the defendant or defendant's lawyer, if one is appointed, has ordered the appropriate transcripts within 28 days of service of the order granting or denying the delayed request for counsel, unless the transcript has already been filed or has been ordered by the court under MCR 6.425~~(F)~~(G)(2), and
- (c) the application for leave to appeal is filed in accordance with the provisions of this rule within 42 days after the filing of the transcript. If the transcript was filed before the order appointing or denying the appointment of counsel, the 42-day period runs from the date of that order.

A defendant who seeks to rely on one of the exceptions in subrule (F)(4) must file with the application for leave to appeal an affidavit stating the relevant docket entries, a copy of the docket or calendar entries, or other documentation showing that the application is filed within the time allowed.

(5) [Unchanged.]

(G) [Unchanged.]

Staff Comment: The October 18, 2005, amendment of MCR 7.205 reflects recently approved amendments of MCR 6.310, MCR 6.425, MCR 6.429, and MCR 6.431.

The staff comment is not an authoritative construction by the Court.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 18, 2005

Corbin R. Davis
Clerk